



E-541-1
UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Compaq Computer Corporation
20555 State Highway 249
Houston, Texas 77070-2698

DRAFT

Attention: Mr. George E. Kugler
Vice President, Worldwide Logistics

Dear Mr. Kugler:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Compaq Computer Corporation (Compaq) has violated the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the "Act").²

Facts constituting violations:

CHARGES 1-3

On three separate occasions, on or about September 17, 1992, April 5, 1993, and June 11, 1993, Compaq exported computer equipment from the United States to Venezuela, Chile and the

¹ The alleged violations occurred in 1992 and 1993. The Regulations governing the violations at issue are found in the 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992 and 1993)). Those Regulations define the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this charging letter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706) (1991 & Supp. 1996)) ("IEEPA").



People's Republic of China without obtaining from BXA the validated licenses required by Section 772.1(b) of the former Regulations. BXA alleges that, by exporting a commodity to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of the Act, or any regulation, order, or license issued thereunder, Compaq violated Section 787.6 of the former Regulations.

BXA alleges that Compaq committed three violations of Section 787.6 of the former Regulations, each of which involves commodities controlled for reasons of national security under Section 5 of the Act.

Accordingly, Compaq is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation or, for a violation of national security controls, \$100,000 per violation (see Section 764.3(a)(1) of the Regulations);³

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Compaq fails to answer the charges contained in this letter within 30 days after service as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Compaq is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

³ Between October 1, 1990 and March 27, 1993, the former Regulations were continued in effect by Executive Order 12730 of September 30, 1990 (3 C.F.R., 1990 Comp. 305 (1991)), issued pursuant to IEEPA. The maximum civil penalty allowed by law during periods when the Regulations are continued in effect by an Executive Order issued pursuant to IEEPA is \$10,000 per violation.

Compaq's answer should be filed with the Administrative Law Judge/Export Control, U.S. Department of Commerce, Room H-6839, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Compaq's answer should be served on the Department at the address set out in Section 766.5(b), adding "ATTENTION: C. Randall Pratt, Esq." below the address. Please note that the room number for the Department is H-3839. Ms. Pratt may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
COMPAQ COMPUTER CORPORATION)
20555 State Highway 249)
Houston, Texas 77070-2698,)
)
Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between Compaq Computer Corporation (Compaq) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act).²

¹ The alleged violations occurred in 1992 and 1993. The Regulations governing the violations at issue are found in the 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992 and 1993)). Those regulations define the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Settlement Agreement.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), has notified Compaq of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that on three separate occasions, on or about September 17, 1992, April 5, 1993, and June 11, 1993, Compaq exported computer equipment from the United States to Venezuela, Chile and the People's Republic of China without obtaining from BXA the validated licenses required by Section 772.1(b) of the former Regulations, in violation of Section 787.6 of the former Regulations;

Whereas, Compaq has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

Whereas, Compaq neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, Compaq wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, Compaq agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Compaq and BXA agree as follows:

1. BXA has jurisdiction over Compaq, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Compaq agree that the following sanction shall be imposed against Compaq in complete settlement of the alleged violations of the Act and former Regulations set forth in the proposed Charging Letter:

(a) Compaq shall be assessed a civil penalty of \$55,000, which shall be paid within 30 days of the date of entry of an appropriate Order;

(b) As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2(a) is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Compaq. Failure to make timely payment of the civil penalty shall result in the denial of all of Compaq's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Compaq agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby

waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Compaq in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed Charging Letter.

5. Compaq understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Compaq agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Compaq agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by

the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and Order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

COMPAQ COMPUTER
CORPORATION

BY: Mark D. Menefee
Mark D. Menefee
Acting Director
Office of Export Enforcement

Date: 4/18/97

BY: George E. Kugler
George E. Kugler
Vice President, Worldwide
Logistics
Compaq Computer Corporation

Date: 4-15-97

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
COMPAQ COMPUTER CORPORATION)
20555 State Highway 249)
Houston, Texas 77070-2698,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Compaq Computer Corporation (Compaq) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the Act),¹ and the Export Administration Regulations (61 Fed. Reg. 12734-13041, March 25, 1996, to be codified at 15 C.F.R. Parts 730-774) (the Regulations),² based on allegations

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

² The alleged violations occurred in 1992 and 1993. The Regulations governing the violations at issue are found in the 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992 and 1993)). Those regulations define the conduct that BXA alleges was violated and are referred to hereinafter as the former Regulations. Since that time, the

that on three separate occasions, on or about September 17, 1992, April 5, 1993, and June 11, 1993, Compaq exported computer equipment from the United States to Venezuela, Chile and the People's Republic of China without obtaining from BXA the validated licenses required by Section 772.1(b) of the former Regulations, in violation of Section 787.6 of the former Regulations; and

BXA and Compaq having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$55,000 is assessed against Compaq, which shall be paid to the United States Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions.

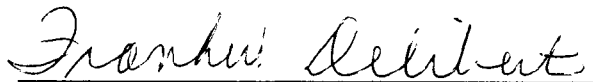
SECOND, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Compaq. Accordingly, if Compaq should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section

Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Order.

11(d) of the Act denying all of Compaq's export privileges for a period of one year from the date of this Order.

THIRD, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Frank W. Deliberti
Acting Assistant Secretary
for Export Enforcement

Entered this 18th day of April, 1997.